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SUBJECT: GOI ANTIBODIES ATTACKING INDEPENDENT IRAQI TELECOM
AUTHORITY

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[B](#). 08 BAGHDAD 3633

Summary

[1](#)1. (SBU) Five members of the Communications Media Commission (CMC) caretaker authority met with EMIN on January 13 to discuss the beleaguered commission's challenges and search for ways to help the CMC navigate Iraq's treacherous political waters. Provisionally established by CPA Law 65 to manage Iraq's frequency spectrum and license and regulate the telecommunications sector, the CMC has not yet been successful in assuming its responsibilities within the Iraqi political or economic system. Three rival laws formally establishing the CMC, the Ministry of Communications (MOC), and the overall telecommunications sector structure have been slowly percolating through the Shura Council and Parliament since 2004. Harmonizing these three laws has thus far proven to be a task beyond the GOI's capability. The MOC continues to battle to assume the CMC's regulatory and licensing authority, both to control the revenues and to prevent what they perceive as nongovernment control over sovereign issues. There are new indications the Prime Minister is leaning towards the MOC view. With few political allies and process momentum running against them, the CMC's future is uncertain at best.

CMC Limping Through a Political Minefield

[1](#)2. (U) Five members of the CMC caretaker authority met with EMIN and Embassy and MNF-I telecom officers on January 13 to discuss the beleaguered commission's challenges and search for ways to help the CMC navigate Iraq's treacherous political waters. The Prime Minister has never appointed the nine commissioners called for under Coalition Provisional Authority (CPA) Law 65, which established the CMC in 2004. Thus, though endowed with independent authority to manage Iraq's frequency spectrum and license and regulate the telecommunications sector, the CMC has not yet been successful in assuming its responsibilities within the Iraqi political or economic system. The CMC has limped along for years with only a Chairman to direct the independent regulator's actions and fend off political rivals looking to assume the CMC's lucrative regulatory authority. (Comment: For some sense of the lucrative nature of the CMC's licensing authority, Iraq's August 2007 auction of mobile telecommunications operator licenses fetched USD 3.75 billion up front, plus 18.5 percent of monthly gross revenues and 15 percent of net profits (reftel A). End comment.) Since the CMC Chairman, Dr. Sayemand Othman, resigned in April 2008 after completing his 4-year appointment, the CMC has been rudderless and lost most of its already limited political

standing. The CMC caretakers say political opponents, primarily in the Ministry of Communications, have taken advantage of the opening to try and complete the demise of the CMC.

The CMC-MOC Rivalry

¶3. (U) Three rival laws establishing the CMC, MOC, and overall telecommunications sector structure have been slowly percolating through the Shura Council and Parliament since ¶2004. Harmonizing these three laws has thus far proven to be a task beyond the GOI's capability. CPA Law 65 directed the CMC to draft an all-encompassing Telecommunications Law which would define the overall sector parameters, including the broad strokes of the MOC's responsibilities. The MOC's draft law, in contrast, drafted by the MOC to constitute the communications ministry's specific structure and Qcommunications ministry's specific structure and responsibilities, calls for the MOC to assume several key CMC responsibilities, including spectrum management and service provider licensing. The MOC is itself a major service provider through its two state-owned internet and telephone companies, a role plainly incompatible with the licensing and regulatory authority they seek.

¶4. (U) According to CMC caretaker authority, in an attempt to force compromise between the CMC and MOC, the Prime Minister's Office (PMO) appointed a committee in 2007, headed by the Chief of the Shura Council with members from the PMO, MOC, Council of Ministers (CoM), and several other GOI agencies. This committee has twice reported to the PMO

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General Secretary that they are unable to find a compromise position to harmonize the three laws. CMC Deputy for Legal Issues Omar Ghassan told CETI that the PMO issued a decision on January 11 to support the MOC law and return it to the Parliament for discussion and vote. "This could be the end for the CMC," he lamented. (Comment: Embassy independently confirmed that in a January 11 press release, the Council of Ministers declared their support for most provisions of the MOC's version of the law. End comment.)

GOI Institutional Fear of an Independent Regulator

¶5. (SBU) Several remarks from members of the CMC caretaker committee demonstrated a limited understanding of the concept of an independent regulator within the GOI and among CMC staff. Mazin Hashim, CMC Deputy for Administrative Affairs, claimed the MOC argued to the PMO and CoM that "the government must maintain control of licensing and regulatory authority and since the CMC is not part of the government, this responsibility should reside with the MOC." EconOff questioned Hashim later whether a CMC Commissioner would be considered a government employee: "No, of course not. This is an independent commission," he responded. (Comment: With employees of the CMC under the impression they are not government employees, it is somewhat more understandable how the MOC might convince the PMO and CoM that the GOI could be losing sovereign control of their spectrum and licensing authority if they give such responsibilities to an independent regulator. End comment.) It is not just spectrum control and licensing authority at stake, but also the billions of dollars in licensing and services revenue the MOC stand to gain control of. Previously, the MOC told us that they far prefer to have these revenues channeled through the MOC to the Ministry of Finance (MOF) rather than straight from the CMC to the MOF (reftel B).

Comment: Can the CMC be Saved?

¶6. (SBU) With few political allies and process momentum running against it, the CMC's future is uncertain at best. Lacking commissioners and a Director General, CMC budgeting decisions are presently being handled through the MOF. The CMC caretaker authority lacks the authority to hire new employees, so as the rank-and-file workers leak away to more optimistic employment opportunities, the CMC's fortunes spiral downward. Efforts by the World Bank to influence the GOI to establish a strong independent telecommunications regulator have waned under the new Minister of Communications. Some members of the Council of Representatives, including the Chair of the Services Committee, Abdullah Saleh, do appreciate the importance of the role of an independent regulator, and may be able to check, if only temporarily, the MOC's drive to undermine the CMC. EMIN will meet with Abdullah Saleh and the Minister of Communications in the coming weeks to again emphasize U.S. support for the independent regulatory authority of the CMC. Section VII of the bilateral Strategic Framework Agreement (SFA) that came into force this month explicitly calls for bilateral cooperation to strengthen the independent telecommunications regulator, so the Mission will continue to press this issue within the appropriate SFA Joint Coordination Committee. However, with such institutional misunderstanding of the CMC's role and no GOI precedent for an independent regulator, Iraq may have to learn the hard way the importance of having an independent regulator to balance the MOC's power as a state-owned service provider.

¶7. (U) Participant list:

Iraq:

- Mazin Hashim Al-Haboubi -- CMC Deputy for Administrative Affairs
- Omar Ghassan -- CMC Deputy for Legal Issues
- Firas Sami - CMC Deputy for Finance
- Mohammed Al-Gharbawi - CMC Frequency Management Director
- Ahmed Al-Hameed -- CMC Frequency Management Deputy Director

United States Embassy:

- Ambassador Marc Wall -- Coordinator for Economic Transition in Iraq (CETI)
- Michael Dodman -- Economic Counselor
- Julie Chung -- CETI Senior Advisor
- Michael Uyehara -- Economic Section Infrastructure Team Chief
- Roy Therrien -- ESTH and Telecom Policy Officer

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- Shwan Halkurd - Senior Telecommunications Advisor
 - MAJ Jared Voneida -- MNFI CJ6
 - Laurie Driver -- MNFI CJ6
- CROCKER